

## **Amendment to State's Family – Medical Leave Policy / Responsibilities & Procedures**

### **SCOPE**

This amendment applies to merit and non-merit employees subject to the executive authority of the Governor except employees of the State Police.

### **STATEMENT OF POLICY**

This Amendment must be read in conjunction with the State's Family-Medical Leave Policy / Responsibilities and Procedures. Unless otherwise specifically altered below, the provisions of the State's Policy / R&P apply to use of FMLA leave to care for a covered servicemember.

It is the policy of the State of Indiana, in accordance with the Family and Medical Leave Act of 1993, as amended by Section 585 of the National Defense Authorization Act of 2008, and regulations promulgated by the U.S. Department of Labor at 29 CFR §825, to allow eligible employees to take up to twenty-six (26) workweeks of leave in a single twelve (12)-month period to care for a spouse, child, parent, or next of kin who is a covered servicemember.

During the single fiscal year in which an eligible employee uses this leave to care for a covered servicemember, such employee is entitled to a combined maximum total of 26 workweeks of leave for all of the qualifying events identified in the State's Family-Medical Leave policy/responsibilities and procedures including this Amendment. Use of servicemember leave in a single twelve (12)-month period does not limit the availability of leave for other family-medical leave purposes in any other twelve (12)-month period nor does it increase the combined amount of FMLA leave available for husbands and wives working for the same employer who take parenting leave after the birth or placement of a child.

<b>DEFINITIONS</b>
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Active Duty means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

Combined Leave Total means that during the single 12-month period for which an employee uses Servicemember Family Leave, the employee shall be entitled to a combined total of twenty-six(26) weeks of leave for all family medical and servicemember family leaves. This does not limit the availability of family medical leave during any other 12-month period nor does it increase the combined amount of FMLA leave available for husbands and wives working for the same employer who take parenting leave after the birth or placement of a child.

Documentation means that written information that shows the familial or blood relationship between the employee and the covered servicemember s/he is requesting leave to care for and that medical documentation which shows the servicemember qualifies as a Covered Servicemember defined below.

Covered Servicemember means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

Next of Kin means the employee is the nearest blood relative of that covered servicemember for whom the employee is seeking servicemember family leave.

Outpatient Status, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to – (A) a military medical treatment facility as an outpatient; or (B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Serious Injury or Illness, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

## RESPONSIBILITIES

Responsibilities of Employees and Employers are not changed by this Amendment. See Responsibilities in the State's Family – Medical Leave Policy / Responsibilities & Procedures Statement.

## PROCEDURES

Procedures for Notice and Certification listed in the State's Family – Medical Leave Policy / Responsibilities & Procedures Statement are amended only to the extent identified below:

- There is a new form entitled [Request for FMLA to Care for a Covered Servicemember](#) which should be used.
- Documentation of a serious illness or injury, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, shall be that documentation as prescribed by the Department of the Defense.

Procedures for Workers' Compensation and State's Long/Short Term Disability Program are not applicable for employees taking FMLA leave to care for a covered servicemember.

Procedures for Recertification, Maintenance of Health Benefits, and Job Restoration are not changed by this Amendment. See Responsibilities in the State's Family – Medical Leave Policy / Responsibilities & Procedures Statement.

#### REFERENCES

Sec. 585 of Public Law 110-181 National Defense Authorization Act of 2008

Family and Medical Leave Act of 1993, as amended

29 CFR §825

31 IAC 2-11

31 IAC 1-9


Family – Medical Leave Policy

Vacation Leave Policy

Sick Leave Policy

Personal Leave Policy

EFFECTIVE January 28, 2008

APPROVE   
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Daniel L. Hackler, State Personnel Director

DATE February 28, 2008